

**AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
THE CITY OF UPLAND
AND
BEST BEST & KRIEGER LLP**

1. PARTIES AND DATE.

This Agreement is made and entered into as of the February 22, 2021, by and between the City of Upland, a municipal corporation ("Client"), and Best Best & Krieger LLP, a limited liability partnership engaged in the practice of law ("BB&K").

2. RECITALS.

2.1 Client wishes to engage the services of BB&K as its City Attorney to perform all necessary legal services for the Client on the terms set forth below. For purposes of this Agreement, the term "Client" shall include the City's Successor Agency, Housing Authority, Public Finance Authority and any other affiliated entities governed by the City Council.

3. TERMS.

3.1 Term. The term of this Agreement shall commence on February 22, 2021 and shall continue in full force and effect until terminated in accordance with Section 3.12.

3.2 Scope of Services. BB&K shall serve as City Attorney and shall perform legal services ("Services") as may be required from time to time by the Client as set forth by this Agreement, unless otherwise agreed to by the Client and BB&K. As part of the Services to be performed hereunder, BB&K shall be responsible for the following:

3.2.1 Preparation for, and attendance at, regular meetings of the Client;

3.2.2 Provision of legal counsel at such other meetings as directed by the Client;

3.2.3 Preparation or review of Client ordinances and resolutions, together with such staff reports, orders, agreements, forms, notices, declarations, certificates, deeds, leases and other documents as requested by the Client;

3.2.4 Rendering to the officers and employees of the Client legal advice and opinions on all legal matters affecting the Client, including new legislation and court decisions, as directed by the Client;

3.2.5 Researching and interpreting laws, court decisions and other legal authorities in order to prepare legal opinions and to advise the Client on legal matters pertaining to Client operations, as directed by the Client;

3.2.6 Performing legal work pertaining to property acquisition, property disposal, public improvements, public rights-of-way and easements, as directed by the Client;

3.2.7 Responding to inquiries and review for legal sufficiency ordinances, resolutions, contracts, and administrative and personnel matters, as directed by the Client;

3.2.8 Representing and assisting on litigation matters, as directed by the Client. Such services shall include, but shall not be limited to, the preparation for and making of appearances, including preparing pleadings and petitions, making oral presentations, and preparing answers, briefs or other documents on behalf of the Client, and any officer or employee of the Client, in all federal and state courts of this State, and alternative dispute resolution officer, and before any governmental board or commission, including reviewing, defending or assisting any insurer of the Client or its agents or attorneys with respect to any lawsuit filed against the Client or any officer or employee thereof, for money or damages.

3.2.9 The following additional services are available for an additional fee if authorized by the City Manager:

(A) **BB&K's Project 5 Program.** Provides participants with memoranda summarizing new changes in case law under the California Environmental Quality Act ("CEQA"), an annually updated set of CEQA notices and forms to aid participants in meeting CEQA's requirements, an annually updated set of Local CEQA Guidelines and a draft Resolution for adopting Local CEQA Guidelines, memoranda summarizing pending and recently passed CEQA legislation, and other CEQA resources and materials. Memoranda, forms, and guidelines are provided to participating agencies via the CEQA Guidelines Client Portal, a secure website providing an on-demand and continually updating library of CEQA resources. By providing our Project 5 Program updates to a large pool of participants, BB&K is able to divide the overall cost of the products among all participants and charge only a fraction of the total costs to the individual client agencies. If the City wishes to utilize this Program, the hourly rates charged are the same as those charged for Special Legal Services under Exhibit "A."

(B) **BB&K's Advanced Records Center Services.** Through its Advanced Records Center ("ARC"), BB&K combines its legal acumen and experience with cutting-edge technology to provide comprehensive and cost-effective support for non-routine records-related matters. Specifically, at the Client's option, the ARC team will assist Client with non-routine Public Records Act Processing and Policy Drafting, as detailed below. See Exhibit "E" for more details.

(C) **BB&K Trainings.** Best Best & Krieger LLP offers a variety of trainings to public agency and private business leadership and staff on topics required by law, as well as preventative and educational legal topics. The trainings are interactive and can be given onsite, via live webinar or virtual on-demand. Some of our most popular trainings include AB 1234 Ethics, Workplace Civility and Sexual Harassment Avoidance Training, The Brown Act "Open Meetings Law," Crystalizing Your Agency's CPRA Policies & Procedures and SB 1343 Sexual Harassment Avoidance Training for Non-Supervisors. Such trainings are customizable. Pricing available upon request.

(D) **BB&K's Election Law Center Subscription Services.** Participants in BB&K's Election Law Center will be given access to up-to-date election document templates, including resolutions and other mandatory election documents. The annual subscription also gives participants access to BB&K's Election Law Center hotline, which participants can use for guidance on day-to-day election law questions that arise during campaign and election season. Participation in this service is available under a separate agreement. As of January 1, 2021, pricing is \$1,950 annually.

3.3 **Designated City Attorney.** Stephen P. Deitsch shall be designated as City Attorney, and shall be responsible for the performance of all Services under this Agreement, including the supervision of Services performed by other members of BB&K. Thomas A. Rice shall be designated as Assistant City Attorney, and shall attend such meetings as may be requested by the City Attorney. No change in these assignments shall be made without the consent of the Client.

3.4 **Time of Performance.** The Services of BB&K shall be performed expeditiously in the time frames and as directed by the Client.

3.5 **Assistance.** The Client agrees to provide all information and documents necessary for the attorneys at BB&K to perform their obligations under this Agreement.

3.6 **Independent Contractor.** BB&K shall perform all legal services required under this Agreement as an independent contractor of the Client and shall remain, at all times as to the Client, a wholly independent contractor with only such obligations as are required under this Agreement. Neither the Client, nor any of its employees, shall have any control over the manner, mode or means by which BB&K, its agents or employees, render the legal services required under this Agreement, except as otherwise set forth. The Client shall have no voice in the selection, discharge, supervision or control of BB&K's employees, representatives or agents, or in fixing their number, compensation, or hours of service.

3.7 **Fees and Costs.** BB&K shall render and bill for legal services in the following categories and at rates set forth in Exhibit "A" and in accordance with the BB&K Billing Policies set forth in Exhibit "D", both of which are attached hereto and incorporated herein by reference. In addition, the Client shall reimburse BB&K for reasonable and necessary expenses incurred by it in the performance of the Services under this Agreement. Authorized reimbursable expenses shall include, but are not limited to, printing and copying expenses, mileage expenses at the rate allowed by the Internal Revenue Service, toll road expenses, long distance telephone and facsimile tolls, computerized research time (e.g. Lexis or Westlaw), research services performed by BB&K's library staff, extraordinary mail or delivery costs (e.g. courier, overnight and express delivery), court fees and similar costs relating to the Services that are generally chargeable to a client. However, no separate charge shall be made by BB&K for secretarial or word processing services.

3.8 **Billing.** BB&K shall submit monthly to the Client a detailed statement of account for Services. The Client shall review BB&K's monthly statements and pay BB&K for Services rendered and costs incurred, as provided for in this Agreement, on a monthly basis.

3.9 Annual Reviews. The Client and BB&K agree that a review of performance and the compensation amounts referenced in this Agreement should occur at least annually.

3.10 Insurance. BB&K carries errors and omissions insurance with Lloyd's of London. After a standard deductible, this insurance provides coverage beyond what is required by the State of California. A declaration page containing information about BB&K's errors and omissions insurance policy is available upon Client's request.

BB&K shall procure and maintain for the duration of the Agreement the following types of insurance against claims and injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the BB&K, its agents, representatives, or employees:

3.10.1 Commercial General Liability, using a standard ISO CG 00 01 occurrence form, including premises, operations, products and completed operations and contractual liability with limits not less than \$1,000,000 per occurrence, \$2,000,000 General Aggregate and \$1,000,000 Products-Completed Operations Aggregate for bodily injury, personal injury, and property damage.

3.10.2 Automobile Liability, using a standard ISO Business Auto CA 00 01 form with limits not less than \$1,000,000 per accident for bodily injury and property damage for all owned, hired and non-owned automobiles. Coverage shall include Contractual Liability.

3.10.3 Workers' Compensation including statutory coverage as required by the State of California and including Employer's Liability with limits not less than \$1,000,000 each accident; 1,000,000 policy limit bodily injury by disease; \$1,000,000 each employee bodily injury by accident.

3.10.4 Professional Liability (Errors & Omissions) insurance with limits not less than \$5,000,000 per occurrence and in the Aggregate. Such insurance coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this Contract.

The above insurance shall include endorsements as follows: Additional insured and Primary/non-contributory on GL, AL; Waiver of Subrogation on GL, AL and WC

The above insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VIII, and admitted and licensed to do business in the State of California, unless otherwise acceptable to the City. Self-insurance shall not be considered to comply with these insurance requirements.

3.11 Attorney-Client Privilege. Confidential communication between the Client and BB&K shall be covered by the attorney-client privilege. As used in this article, "confidential communication" means information transmitted between the Client and BB&K in the course of the relationship covered by this Agreement and in confidence by a means that, so far as the Client is aware, discloses the information to no third persons other than those who are present to further the interests of the Client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which BB&K is

consulted, and includes any legal opinion formed and advice given by BB&K in the course of this relationship.

3.12 Termination of Agreement and Legal Services. This Agreement and the Services rendered under it may be terminated at any time upon thirty (30) days' prior written notice from either party, with or without cause. In the event of such termination, BB&K shall be paid for all Services authorized by the Client and performed up through and including the effective date of termination. BB&K shall also be reimbursed for all costs associated with transitioning any files or other data or documents to a new law firm or returning them to the Client.

3.13 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.

3.14 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.

3.15 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.

3.16 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

3.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.18 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.19 Delivery of Notices. All notices permitted or required under this Agreement notices shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Client: City of Upland
460 N. Euclid Avenue
Upland, CA 91786
Attention: City Manager

BB&K: Best Best & Krieger LLP
2855 E. Guasti Rd.,
Suite 400

Ontario, CA 91761
Attention: City Attorney, City of Upland

3.20 Indemnification.

3.20.1 To the fullest extent permitted by law, BB&K shall defend, indemnify and hold harmless the City of Upland ("City"), and its official, its officers, employees, volunteers and agents harmless from and against any and all actions, suits, claims, demands, judgments, attorney's fees, costs, damages to persons or property, losses, penalties, obligations, expenses or liabilities (herein "claims" or "liabilities") that may be asserted or claimed by any person or entity arising out of the willful or negligent acts, errors or omissions of BB&K, its employees, agents, representatives or subcontractors which directly or indirectly relate to the work being performed or services being provided under this Agreement, whether or not there is concurrent active or passive negligence on the part of City and its officers, employees and agents, but excluding such claims or liabilities arising from the sole active negligence or willful misconduct of City or and/or its officers, employees and agents in connection therewith. The parties agree that City shall, in its sole discretion, have the right to choose legal counsel to defend it as to any actions, suits, claims, demands, judgments, attorney's fees, costs, damages to persons or property, losses, penalties, obligations, expenses or liabilities contemplated by this Section notwithstanding BB&K's obligations to indemnify and hold the City harmless. The parties further anticipate that BB&K's insurance policy or policies will provide coverage that shall be primary for the matters addressed by this Section.

3.20.2 City acknowledges BB&K is being appointed as City Attorney pursuant to the authority of Government Code Section 36505, and has the authority of that office. Accordingly, the City is responsible pursuant to Government Code Section 825 for providing a defense for the City Attorney for actions within the scope of its engagement hereunder. Therefore, City agrees to undertake its statutory duty and indemnify BB&K, its officers, employees and agents against and will hold and save each of them harmless from, any and all claims or liabilities that may be asserted or claims by any person, firm or entity arising out of or in connection with the work, operations or activities of BB&K within the course and scope of its performance hereunder, but nothing herein shall require City to indemnify BB&K for liability arising from its own negligence or alleged negligence. In connection herewith:

(A) City will promptly provide a defense and pay any judgment rendered against the CITY, its officers, agency or employees for any such claims or liabilities arising out of or in connection with such work, operations or activities of City hereunder; and

(B) In the event BB&K, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against City for such damages or other claims solely arising out of or in connection with the work operation or activities of City hereunder, CITY agrees to pay to BB&K, its officers, agents or employees any and all costs and expenses incurred by attorney, its officers, agents or employees in such action or proceeding, including, but not limited to, legal costs and attorneys' fees.

IN WITNESS WHEREOF, the Client and BB&K have executed this Agreement for City Attorney Legal Services as of the date first written above.


(signatures contained on following page)

**SIGNATURE PAGE TO
AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
THE CITY OF UPLAND
AND
BEST BEST & KRIEGER LLP**

CITY OF UPLAND

By:  Date: 2/22/2021
Bill Velto
Mayor

ATTEST:

By:  Date: 2/23/21
Keri Johnson
City Clerk

BEST BEST & KRIEGER LLP

By:  Date: 2/22/21
Stephen P. Deutsch
Partner

**EXHIBIT “A”
TO
AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
THE CITY OF UPLAND
AND
BEST BEST & KRIEGER LLP**

1. Basic Legal Services - Description. Basic legal services shall include all services provided to Client that are not otherwise specifically identified below as either Special Legal Services, Third Party Reimbursable Legal Services, or Public Finance Legal Services (“Basic Legal Services”).

The Client shall pay for Basic Legal Services at the flat rate monthly retainer amount of Twenty Thousand Dollars (\$20,000.00).

By way of example, Basic Legal Services includes attendance at regular and special City Council and Planning Commission meetings, attendance at executive team meetings, and office hours when required. Basic Legal Services includes work on standard ordinances and resolutions, standard contracts, and general inquiries relating to the Brown Act, conflict of interest laws and the Public Records Act, etc. consistent with the cost proposal worksheet included as Section 7 of this Exhibit A.

2. Special Legal Services and Complex Special Services - Description.

Special Legal Services shall include the following types of services:

- A. Litigation and formal administrative or other adjudicatory hearing matters
- B. Labor relations and employment matters
- C. Non-routine real estate matters (e.g. CC&R’s, deed or title work)
- D. Land acquisition and disposal matters (including pre-condemnation)
- E. Successor Agency and housing matters
- F. Taxes, fees and charges matters (e.g. Prop. 218 & Mitigation Fee Act)Public construction disputes
- H. Non-routine contract negotiation matters (including non-BB&K model agreements and franchise agreements)
- I. Non-routine land use and development matters (including general plan updates, Williamson Act issues, annexations and development agreements)
- J. Environmental matters (e.g. CEQA, NEPA, endangered species)
- K. Water law matters (e.g. water quality, storm water)Tax and ERISA related matters

- M. Toxic substances matters (e.g. CERCLA, RCRA)
- N. Complex public utility matters (e.g. electric, natural gas, telecommunications, water, rail or transit that involve state or federal regulatory issues)
- O. Renewable energy and energy efficiency project contracts and power purchase agreements
- P. Intergovernmental Relations and Advocacy efforts (e.g. legislative and regulatory representation) at the federal and state level.
- Q. Non-routine election law matters, including election law litigation.
- R. PRA Policy drafting including reviewing, assessing, and updating records-related policies to reflect current legal standards and best practices.
- S. Other matters mutually agreed upon between BBK and the City Manager.

Complex Special Services shall include the following types of services:

- A. Water rights matters.
- B. Employee benefits & retirement matters.

3. Special Legal Services – Rates. The Client shall pay for Special Legal Services at the following rates:

Partners & Of Counsel	\$325 per hour
Associates	\$265 per hour
Paralegals & Law Clerks	\$160 per hour
Litigation Analysts	\$160 per hour
Muni / Research Analysts	\$160 per hour
Pension Consultant	\$250 per hour

Complex Special Services – Rates. The Client shall pay for Complex Legal Services such as Employee Benefits & Retirement matters and Water Rights matters at the following rates:

Partners & Of Counsel	\$400 per hour
Associates	\$265 per hour
Pension Consultant	\$250 per hour
Paralegals & Law Clerks	\$160 per hour

Litigation Analysts \$160 per hour

Muni / Research Analysts \$160 per hour

4. Other Legal Services

Advanced Records Center (ARC) Services (See Exhibit “E”) – At City Manager’s request, BB&K may provide Client with Public Records Act (PRA) processing services at the following rates:

All ARC Team Members \$180 per hour
(Including attorneys)

City Prosecutor and Code Enforcement – At City Manager’s request, BB&K may provide Client with code enforcement legal services and City Prosecutor services, if required, at the following rates:

Attorneys \$220 per hour

Paralegals & Law Clerks \$150 per hour

Trainings – BB&K offers a variety of in-person training in areas like ethics, conflicts of interest, and sexual harassment, currently priced between \$950 \$1,200. Training via video conference and webinars currently range from \$20 to \$75 per person.

5. Agreement Regarding Rate Categories. If BB&K believes that a matter falls within the Special Legal Services, Third Party Reimbursable Legal Services, or Public Finance Legal Services rate categories, BB&K shall seek approval from the City Manager or his/her designee. The City Manager’s or her designee’s approval of such a request from BB&K shall not be unreasonably withheld.

6. Annual Adjustments.

The above rates and retainer amounts will be adjusted annually using the cost of living index and rounded to the nearest dollar. At the start of the Client’s fiscal year, July 1, 2022 and every July 1 thereafter during the term of this Agreement, rates and amounts shall be increased for the change in the cost of living for the most recently published twelve (12) month period, as shown by the U.S. Department of Labor in its All Urban Consumers Index (Riverside-San Bernardino-Ontario, CA area, Base Period December 2017 = 100) provided, however, that such adjustment shall never be lower than zero percent (0%) nor more than three percent (3%). This CPI-U adjustment request shall be made in writing with appropriate supporting documentation prior to March 15th for implementation on the following July 1 to allow for budgeting purposes. In addition

to the automatic rate increases, either BB&K or the Client may initiate consideration of a rate increase at any time.

7. Cost Proposal Worksheet

SERVICES	PROVIDED BY FIRM	INCLUDED IN RETAINER	TITLE/PERSON PERFORMING THIS SERVICE
Attend regular and special Council meetings	Yes	Yes	CITY ATTORNEY OR ASSISTANT CITY ATTORNEY
Attend regular and special Commission meetings	Yes	Yes	PLANNING COMMISSION ATTORNEY
Attend Executive Team and other similar meetings as requested	Yes	Yes	CITY ATTORNEY OR ASSISTANT CITY ATTORNEY
Office hours, at least twice per month	Yes	Yes	CITY ATTORNEY OR ASSISTANT CITY ATTORNEY
Agenda review and follow-up	Yes	Yes	CITY ATTORNEY OR ASSISTANT CITY ATTORNEY
Standard ordinances/resolution review and revision	Yes	Yes	ATTORNEY/PARALEGAL
Standard contract review and revision	Yes	Yes	ATTORNEY/PARALEGAL
Standard conflict issues	Yes	Yes	ATTORNEY/PARALEGAL
Brown Act request issues	Yes	Yes	ATTORNEY/PARALEGAL
Public Record Act request issues	Yes	Case by Case***	ATTORNEY OR ARC TEAM
General legal advice and counsel on matters pertaining to the City, not involving more than three (3) hours of research	Yes	Yes	ATTORNEY
Routine personnel and labor questions, which can be responded to orally, not involving more than one (1) hour of research.	Yes	Yes	ATTORNEY
Code Enforcement Issues – City Code implications	Yes	No*	ATTORNEY
Code Enforcement Issues – Consultation with staff and City Prosecutor	Yes	No*	ATTORNEY
Code Enforcement Issues – Preparation and review of notices, demands and orders	Yes	No*	ATTORNEY

Litigation	Yes	No	ATTORNEY
Personnel services – Personnel Board of Review	Yes	No	ATTORNEY
Transactions – Purchase and sales agreements	Yes	No**	ATTORNEY
Transactions – Options	Yes	No	ATTORNEY
Transactions – Leases	Yes	No**	ATTORNEY
Transactions – Statutory development agreements	Yes	No	ATTORNEY
Transactions – Specialized fee credit or reimbursement agreements	Yes	No	ATTORNEY
Water rights and water quality issues	Yes	No****	ATTORNEY
Franchising	Yes	No	ATTORNEY
Telecommunications	Yes	No	ATTORNEY
Public Works – Contract disputes and interpretation services	Yes	No**	ATTORNEY
Public Works – drafting construction and similar contracts and conditions	Yes	No**	ATTORNEY
Public Works – prevailing wage issues	Yes	No**	ATTORNEY
Public Works – Special condition of approval	Yes	No**	ATTORNEY
Development Services – assessment district and CFD issues	Yes	No	ATTORNEY
Development Services – Right-of-way acquisition	Yes	No	ATTORNEY
Development Services – relocation issues	Yes	No	ATTORNEY
Development Services – CEQA issues and document review	Yes	No	ATTORNEY
Development Services – MSHCP implementation	Yes	No	ATTORNEY
Development Services – Endangered species issues	Yes	No	ATTORNEY
Development Services – Army Corps issues	Yes	No	ATTORNEY
Development Services – Non routine Subdivision Map Act issues	Yes	No**	ATTORNEY
Development Services – Zoning and land use issues	Yes	No**	ATTORNEY
Development Services – Review of General and Specific Plan amendments and documents	Yes	No	ATTORNEY

Development Services – Review of special condition of approval	Yes	No	ATTORNEY
Development Services – Housing issues	Yes	No	ATTORNEY
Development Services – Successor Agency activities	Yes	No	ATTORNEY
Ordinance and resolutions – Drafting and compilation of non-routine ordinances and resolutions; review and analysis of non-routine ordinances and resolutions drafted by City staff or other jurisdictions	Yes	No**	ATTORNEY
In-service training, eg Brown Act, CEQA, Ethics, Sexual Harassment, MS4, Social Media	Yes	No	ATTORNEY
Employee Benefits	Yes	No****	ATTORNEY

* *City Prosecutor and Code Enforcement services are subject to a reduced special legal services rate identified in Section 4 of this Exhibit A.*

** *Questions not requiring extensive review and analysis are included in the monthly retainer.*

*** *ARC services are described in more detail in Exhibit E. As a general rule, day-to-day PRA inquiries will be addressed under the retainer. Any detailed record review and redaction will be subject to special and reduced ARC blended rates identified in Section 4 of this Exhibit A.*

**** *Water rights and employee benefits services are subject to complex special services rates identified in Section 3 of this Exhibit A.*

Note: To the extent possible, Client and BB&K will seek to ensure that project applicants for large/complex projects enter into reimbursement agreements with the Client. Reimbursable services, e.g., work on transactional documents and CEQA documents associated with such projects, are not included in the retainer and are subject to reimbursable rates set forth in Exhibit B. BB&K would bill this work to a separate account so the costs can be passed along to project applicants.

**EXHIBIT “B”
TO
AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
THE CITY OF UPLAND
AND
BEST BEST & KRIEGER LLP**

THIRD PARTY REIMBURSABLE BILLING POLICIES

1. Third Party Reimbursable Legal Services - Description. Third Party Reimbursable Legal Services shall include legal services provided to the City for which the City receives reimbursement from a developer or other third party. These reimbursable legal services include, but are not limited to, negotiation and review of development agreements, planning entitlements, review of CC&Rs; establishment of financing districts (i.e., Community Facilities Districts; Assessment Districts; Landscape and Lighting Maintenance Districts); the processing of land use/environmental projects for which the City is entitled to reimbursement, as well as defending any challenges to project entitlements or any dispute or litigation related to such reimbursable legal services.
2. Third Party Reimbursable Legal Services - Rates. The Client shall pay for Third Party Reimbursable Legal Services at BB&K's then current published standard private client rates, minus ten percent (10%). Upon execution of this Agreement, BB&K shall provide a copy of its published rate schedule to the Client. BB&K shall also provide annual written updates to the Client when changes are made to the published rate schedule.

EXHIBIT "C"
TO
AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
THE CITY OF UPLAND
AND
BEST BEST & KRIEGER LLP

PUBLIC FINANCE & BOND BILLING POLICIES

1. Public Finance & Bond Rates. BB&K will provide bond counsel, special counsel or disclosure counsel services at the request of the Client. Such bond counsel and special counsel services include the preparation of all legislative approvals and legal documentation relating to the appropriate sale and delivery of the bonds, notes or other obligations. BB&K will also prepare such closing certificates and legal opinions necessary for the delivery of the bonds. As disclosure counsel, we will prepare the disclosure documents for the Client and conduct the necessary due diligence related to the transaction. Our fees will be determined based upon the type of financing and the expected involvement of the attorneys involved. We will provide the Client with a detailed description of our services and our fees and reimbursable costs upon the Client's request. Notwithstanding the foregoing, in those cases where the fees are reimbursable by a third party, at BB&K's option it may proceed on an hourly basis and utilize the Third Party Reimbursable Legal Services category provided for in this Amendment, including with respect to services rendered for the formation of, or annexation to, a CFD (of either the City or other local public agency), as well as the negotiation and preparation of funding agreements and joint financing agreements. Legal services related to the Client's compliance with its continuing disclosure covenants and provide such necessary advice on the Client's compliance shall be billed as Special Legal Services, above.

EXHIBIT "D"
TO
AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
THE CITY OF UPLAND
AND
BEST BEST & KRIEGER LLP

BB&K BILLING POLICIES INCLUDING PAYMENT OF COSTS

Our century of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing and payment terms. Therefore, this statement is intended to explain our billing policies and procedures. Clients are encouraged to discuss with us any questions they have about these policies and procedures. Clients may direct specific questions about a bill to the attorney with whom the client works or our Accounts Receivable Department (accounts.receivable@bbklaw.com). Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between the client and the firm.

Invoice and Payment Options

Best Best & Krieger strives to meet our clients' needs in terms of providing a wide variety of invoice types, delivery and payment options. Please indicate those needs including the preferred method of invoice delivery (Invoice via Email; or USPS). In addition, accounts.receivable@bbklaw.com can provide W9, upon request and discuss various accepted payment methods

Fees for Professional Services

Unless a flat fee is set forth in our engagement agreement with a client, our fees for the legal work we will undertake will be based in substantial part on time spent by personnel in our office on that client's behalf. In special circumstances which will be discussed with the client and agreed upon in writing, fees will be based upon the novelty or difficulty of the matter, or the time or other special limitations imposed by the client.

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. All legal services are billed in one-tenth of an hour (0.10/hour) or six-minute increments. Our attorneys are currently billed at rates from \$210 to \$795 per hour, and our administrative assistants, research assistants, municipal analysts, litigation analysts, paralegals, para professionals and law clerks are billed at rates from \$125 to \$290 per hour for new work. These rates reflect the ranges in both our private entity and discounted public agency rates. Additional consultants and/or specialists are available as needed and their rates will be charged at the rate then in effect for such personnel. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply to each affected client, after advance notice.

Fees for Electronically Stored Information (“ESI”) Processing and Storage

BBK provides Electronically Stored Information (ESI”) services for matters requiring ESI support – typically litigation or threatened litigation matters. BBK provides services for basic ESI processing and storage at the following rates per month based on the number of gigabytes of data (“GB”) processed and stored:

1GB -250GB: \$10 per GB

251GB - 550GB: \$8 per GB

551GB - 750GB: \$6 per GB

751GB - 1TB: \$4 per GB

The amount BBK charges for basic processing and storage of ESI allows BBK to recover the costs of providing such services, plus a net profit for BBK. BBK believes that the rates it charges for processing and storage are lower than comparable services available from third party vendors in the market. If you wish to contract separately with a third party vendor for processing and storage costs, please notify BBK in writing. BBK shall not incur costs for ESI support on a particular matter without first confirming by email or written correspondence with the client that the client agrees such services are necessary for the matter at hand.

Fees For Other Services, Costs and Expenses

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges include but are not limited to, mileage at the current IRS approved rate per mile, extraordinary telephone and document delivery charges, copying charges, computerized research, court filing fees and other court-related expenditures including court reporter and transcription fees. No separate charge is made for secretarial or word processing services; those costs are included within the above hourly rates.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges, we need to have sufficient funds on hand from you to pay them when due. We will advise the client from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

Advance Deposit Toward Fees And Costs

Because new client matters involve both a substantial undertaking by our firm and the establishment of client credit with our accounting office, we require an advance payment from clients. The amount of this advance deposit is determined on a case-by-case basis discussed first with the client, and is specified in our engagement agreement.

Upon receipt, the advance deposit will be deposited into the firm's client trust account. Our monthly billings will reflect such applications of the advance deposit to costs and not to attorney's fees. At the end of engagement, we will apply any remaining balance first to costs and then to fees. We also reserve the right to require increases or renewals of these advanced deposits.

By signing the initial engagement agreement, each client is agreeing that trust account balances may be withdrawn and applied to costs as they are incurred and to our billings, after presentation to the client. If we succeed in resolving your matter before the amounts deposited are used, any balance will be promptly refunded.

Monthly Invoices and Payment

Best Best & Krieger LLP provides our clients with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on the client's behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full amount is covered by the balance of an advance held in our trust account. If a bill is not paid within 30 days, a late charge of one percent per month on the unpaid invoice may be added to the balance owed, commencing with the next statement and continuing until paid.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within 60 days of mailing, we assume the client is, for whatever reason, refusing to pay. We will then advise the client by letter that the client may pay the invoice within 14 days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise that with us during the 14-day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

Changes in Fee Arrangements and Budgets

It may be necessary under certain circumstances for a client to increase the size of required advances for fees after the commencement of our engagement and depending upon the scope of the work. For example, prior to a protracted trial or hearing, the firm may require a further advance payment to the firm's trust account sufficient to cover expected fees. Any such changes in fee arrangements will be discussed with the client and mutually agreed in writing.

Because of the uncertainties involved, any estimates of anticipated fees that we provide at the request of a client for budgeting purposes, or otherwise, can only be an approximation of potential fees.

BEST BEST & KRIEGER LLP

**EXHIBIT “E”
TO
AGREEMENT FOR CITY ATTORNEY LEGAL SERVICES
BETWEEN
THE CITY OF UPLAND
AND
BEST BEST & KRIEGER LLP**

ADVANCED RECORDS CENTER (ARC) SERVICES

Through its new Advanced Records Center (“ARC”), BB&K combines its legal acumen and experience with cutting-edge technology to provide comprehensive and cost-effective support for non-routine records-related matters. Specifically, at the Client’s option, the ARC team will assist Client with non-routine Public Records Act Processing and Policy Drafting, as detailed below.

1. **PRA Processing**

A. Support the Client in the processing of public records by:

- (i) working with Client’s staff, including technology staff, to identify and collect the records that are responsive to public records requests;
- (ii) using processing and review software to efficiently treat and handle paper and electronic responsive records; and
- (iii) reviewing and redacting records, uncovering complex legal questions, and analyzing records for potential significance.

2. **Policy Drafting**

A. Assist the Client in updating the following policies to reflect industry standards and best practices:

- (i) Document Retention Policy & Schedule, specifically the purging of emails and other electronic records;
- (ii) Litigation Hold Policy, including procedures for when and how to suspend document destruction schedule;
- (iii) Electronic Devices Policy, including Client-issued and personal devices (BYOD) as well as responsible and personal use; and
- (iv) Social Media Policy, including responsible use and document retention.

3. **Training**

A. Provide the following training for Client staff and officials:

- (i) Overview of Public Records Act (including a component of how Client employees will identify public records, as described in the San Jose case)
- (ii) Electronic Devices (including a review of the San Jose case and inherent obligations)
- (iii) Social Media (including guidance and best practices for staff and elected officials)

PRA Processing tasks are billed at the low blended ARC rates listed in Exhibit “A”, designed to be a cost-effective, low blended rate covering all timekeepers involved in this work, including but not limited to attorneys, paralegals, litigation analysts and municipal analysts.

Policy Drafting tasks identified above are billed at the Special Counsel rates.

PRA Training is offered for your staff at a reduced flat fee amount of \$1,000.00